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EXAMINER

NGUYEN, HUY THANH

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,576	Applicant(s) COTE ET AL.	
	Examiner HUY T. NGUYEN	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/27/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-33 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 7,343,082.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between claims 1-33 of the present application and claims 1-23 of U.S. Patent No. 7,343,082 is that claims 1-23 of U.S. Patent No. 7,343,082 further recite an apparatus and a method that include a post production for synchronizing the video source with a script corresponding to an audio source that are not found in claims 1-33 of the present application. Since claims 1-23 of U.S. Patent No. 7,343,082 encompass claims 1-33 of the present application, it would have

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been obvious to one of ordinary skill in the art to modify the claims 1-23 of U.S. Patent No. 7,343,082 by editing and modifying claims 1-23 of U.S. Patent No. 7,343,082 the to produce claims 1-33 of the present application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 1-8,10-13 ,19-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz (6,185,538) in view of Reid et al (7,085,842)

Regarding claims 1 and 22, Schulz discloses a method for produc9ng an audiovisual work, the method comprises the steps of:

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providing an audio signal to a speech recognition associating module t (column 1 line 60 to column 2, line 68, column 4 lines 25-49); receiving and collecting and associating basic units of recognized speech and related time codes received from a speech recognition module (Fig. 2, column 4, lines 35-47,,column 5, lines 40-46, processing basis units to provide synchronization information for production of the audiovisual work (column 2, lines 25-35); and display user interface the synchronization information (Fig. 2).

Schulze fails to specifically teach that each unit is a word that has a related time code. Reid teaches an apparatus for synchronizing the word with video having a generating means for generating a time code for a word (column 7, lines 55-65). It would have been obvious to one of ordinary skill in the art to modify Schulz with Reid by providing the apparatus of Schulz with a generating mean as taught by Reid for generating a time code for a word in order to accurately synchronizing the word with video .

Regarding claim 2, Schulz further teaches a graphic representation a point of sound to be perform (Fig. 2, column 6, lines 57 to column 7, line 7).

Regarding claims 3, Schulz teaches wherein the basic units of recognized speech are phonemes (column (column 4, lines 25-35).

Regarding claim 4, Schulz teaches the step of converting the basic units of recognized speech received with the time codes into words and words related time codes. (Column 4, lines 35-50).

Regarding claim 5, Schulz teaches the step of converting the basic units of recognized speech received with the time codes into graphemes and graphemes related time codes, the graphemes being processed to provide synchronization information (Fig. 2, column 4, lines 35-50).

Regarding claim 6, Schulz teaches n the step of providing a conformed text source, further wherein the synchronization information provided to the user comprises an indication of a temporal location with respect to the audio signal (column 6, lines 67 to column 7, line 7).

Regarding claim 7, Schulz teaches the step of providing a script of at least one part of the audio signal, further wherein the synchronization information provided to the user comprises an indication of a temporal location with respect to the script provided (column 5, lines 25-55).

Regarding claim 8, Schulz teaches the displaying on a user interface of said synchronization information, comprises the displaying of the graphemes using a horizontally sizeable font (Fig. 2).

Regarding claim 10, Schulz teaches the step of amending at least one part of the audio signal and audio signal related time codes using at least the graphemes and the synchronization information. Sine Schulz teaches that the audio can be edited using the time code and indication on a display (Fig. 2, column 3).

Regarding claim 11, Schulz teaches providing of a plurality of words in accordance with the provided audio signal, the providing being performed by an

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operator (column 3, lines 15-35).

Regarding claim 12, Schulz teaches the step of amending a recognized word in accordance with the plurality of words provided by the operator (column 3).

Regarding claim 13, Schulz teaches the step of creating a composite signal comprising at least the amended word, a video signal related to the audio source and the audio source (column 2, lines 5-20).

Regarding claim 19, Schulz further teaches a adaptation assisting comprises a graphic representation of the plurality of basic units of recognized speech, the related time codes and a plurality of adapted basic units provided by a user, and said interface providing a visual indication of a matching of the plurality of adapted basic units with the plurality of basic speech units, the matching enabling synchronized adaptation of said audio signal (Fig. 2).

Regarding claim 20, Schulz teaches the plurality of adapted basic units is provided by performing speech recognition of an adapted voice source. (Column 4, lines 25-35)

Regarding claim 21, Schulz teaches the speech recognition of the adapted voice source further provides related adapted time codes and adapting the audio signal using said synchronization information and the plurality of adapted basic units is performed by attempting to match at least one of the plurality of basic units with at least one of the plurality of adapted basic units using the related time codes and the related adapted time codes. (Fig. 2, column 4)

Regarding claim 23, Schulz teaches providing an indication of an amount of

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successful replacement of the plurality of basic units of recognized speech of the audio signal by the plurality of basic units of recognized speech of the adapted audio signal (Fig. 2, column 2, lines 25-55).

Regarding claim 24, Schulz teaches the step of providing a minimum amount required of successful replacement of the plurality of basic units of recognized speech of the audio signal by the plurality of basic units of recognized speech of the adapted audio signal, the method further comprising the step of canceling the providing of the at least one replaced plurality of basic units with related replaced time codes if the at least one replaced plurality of basic units is lower than the minimum amount required of successful replacement since Schulz teaches that the audio video and text can be edited (column 5, lines 5-25).

Regarding claim 25, Schulz teaches the audio signal comprises a plurality of voices originating from a plurality of actors, further comprising the step of assigning each of the plurality of basic units and the related time codes to a related actor of the plurality of actors (column. 3, lines 13-24)

Regarding claim 26, Schulz teaches the production comprises closed-captioning production of the audio source, said closed-captioning comprises a graphic representation of the recognized plurality of basic units, the method further comprising the incorporating of at least one of the plurality of basic units as closed-captioning in a visual or non-visual portion of the audio/video portion of the audio/video signal in synchronization (Fig. 2 column 5, lines 25-45).

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Regarding claim 27, Schulz teaches g the step of amending at least one part of the plurality of basic units.

Regarding claim 28, Schulz teaches f converting the basic units of recognized speech received with the time codes into words and words related time codes, further comprising the step of creating a database comprising a word and related basic units (column 5, lines 7-40)

Regarding claim 29, Schulz teaches amending a word of said database, wherein phonemes of the word and the amended word are substantially the same (column 5, lines 7-25).

Regarding claim 30, Schulz teaches the step of converting the basic units of recognized speech received with the time codes into words and words related time codes, further comprising the step of amending at least one word.(column 5, lines 7-25)

Regarding claim 31, Schulz teaches providing a visual indication of a word to amend (column 5, lines 25-40).

Regarding claim 33, Schulz teaches detecting at least one note encoded in the audio signal according to an encoding scheme, further comprising the providing of the detected at least one note on said graphic representation (Fig. 2 (column 25-40, column 6, lines 60 to column 7, line 7)).

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5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz in view of Reid et al as applied to claims 1-8,9-13 and 18-31 above, further in view of Casey (20010044719 A).

Regarding claim 9, Schulz fails to specifically teach detecting a Foley in the audio signal. Casey teaches detecting a Foley in an audio signal (section 0009). It would have been obvious to one of ordinary skill in the art to modify Schulz with Foley by using the teaching of Casey to detect a Foley in the audio signal thereby accurately indexing the audio signal.

6. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz in view of Reid et al as applied to claims 1-8,9-13 and 18-31 above, further in view of Lande et al (6665643) .

Regarding claims 14-15, Schulz fails to specifically teach using to produce animation. .

Lande teaches using visem in production of the animation. It would have been obvious to one of ordinary skill in the art to modify Schulz with Lande by using the teaching of Lande for using the visem to produce animation thus enhancing the capacity of the apparatus of Schulz.

Regarding claim 16, Schulz as modified with and further teaches providing a storyboard database, further comprising the step of converting the basic units of recognized speech received with the time codes into words and words related time codes, the processing of the plurality of words and the words related time codes providing an indication of a

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current temporal location of the audio signal with respect to the storyboard (Schulz, Fig. 2, column 2, lines 55-68).

Regarding claim 17, Schulz as modified with Lande teaches n the basic units of recognized speech are phonemes, further comprising the step of providing a plurality of visems for each of the plurality of words, using a visem database and using the phonemes.

Regarding claim 18, Schulz as modified with Lande further teaches outputting an adjusted voice track comprising the audio signal, at least one part of the storyboard and the plurality of visems.

7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz in view of Reid et al as applied to claims 1-8,9-13 and 18-31 above , further in view of Olmedo (6174170).

Regarding claim 32, Schulz fails to specifically teach that the audio video work comprising karaoke generations. However, it is noted that generating a karaoke having audio signal lyrics and point time is well known in the art as taught Olmedo. Therefore, it would have been obvious to one of ordinary skill in the art to modify Schulz by using the teaching of Olmedo with the apparatus of Schulz to generating the text , audio and video to form a karaoke with lyrics using the text thereby enhancing the capacity of the apparatus of Schulz.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/
Primary Examiner, Art Unit 2621